

**REMARKS/ARGUMENTS**

The Office Action mailed September 9, 2005 has been received and its content carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

Without conceding the propriety of the rejections under 35 U.S.C. § 112 first and second paragraphs, § 102(b) and § 103(a), each of the independent claims 1 and 13 and dependent claims 2, 4, 8, and 18 have been amended and dependent claims 7 and 14 have been cancelled without prejudice or disclaimer of the subject matter contained therein. Specific support for the amendments is to be found, at least, in Figures 1 and 2 and paragraph 22 of the Specification.

**REJECTION UNDER 35 U.S.C. §112 first paragraph**

Claims 17-20 stand rejected under 35 U.S.C. § 112 1<sup>st</sup> paragraph as failing to comply with the enablement requirement. Specifically, in claim 17, the “means for modifying the surfacing device for a surfacing task” is stated to be unclear. However, with reference to FIG. 4, steps 102 and 104 include evaluating the head in response to the surfacing task to be performed and modifying the head accordingly. Particular modifications mentioned in the corresponding paragraph 28 are replacing the surfacing pad in response to worn or inappropriate media. In the interest of further clarifying claims 17-20, the dependency of claim 18 has been amended from claim 17 to claim 13.

**REJECTION UNDER 35 U.S.C. §112 second paragraph**

Claims 2-4 and 14 stand rejected under 35 U.S.C. § 112 2<sup>nd</sup> paragraph as failing to particularly point out and distinctly claim the subject matter to which the applicants regard as

their invention. Claim 2 has been amended to correct antecedent basis. Claim 14 has been cancelled.

REJECTION UNDER 35 U.S.C. §102 (U.S. Patent No. 3,948,005 to Jack W. Whitsett)

Claims 1, 2, 5-8, 13, 16-20 and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,948,005 to Jack W. Whitsett (Hereinafter referred to as, “the Whitsett document”). Claims 7 and 14 have been cancelled. The Applicants respectfully submit that the amendments made to claims 1 and 13 obviate this rejection and thus, respectfully request reconsideration and withdrawal of the rejection to claims 1 and 13 and the claims that depend therefrom.

The Whitsett document is directed to a device that grinds concrete ceilings smooth. This device includes a tower-like base topped with a pivoting cantilevered boom. The pivot point is thus positioned relatively high above the ground. The grinding head is then placed at the distal end of the cantilevered boom. *See FIG. 1*. In so doing, the device is inherently unstable as the grinding head is forced against the surface to be ground. In an attempt to correct for this inherent instability and to increase the stability, the device includes splayed legs that are widely separated. In addition, the force applied by the grinding head upon the grinding surface is directed upwards only. That is, as the surface to be ground changes from overhead and horizontal to vertical, the force applied by the grinding head decreases from 100% to 0%. The Whitsett document is directed to grinding ceilings so, this may not be a concern. However, the device is inappropriate for grinding contours or other such surfaces that vary the angle of attack. In contrast, claims 1 recites, *inter alia*, a joint to rotate about an axis that is perpendicular to the platform and the joint to pivot along a plane that is perpendicular to the platform, wherein the joint rotates at a level

relatively below the wheel height and a suspension system disposed in line between the mount and the joint and that applies a force pressing the mount towards the surface. Also in contrast to the Whitsett document, claim 13 recites, *inter alia*, means for moving the apparatus along the floor, the means for moving having a profile height measured from the floor to a relatively highest point on the means for moving and means for controlling an amount of force exerted by the surfacing device upon the surface, wherein the amount of force is translated in line from relatively below the profile height to the surfacing device. As such, the present invention provides an inherently stable system that provides an even pressure urging the surfacing device towards the surface. In addition, this pressure remains relatively constant as the angle of the surface changes. The Whitsett document fails to disclose, at least, a surfacing device that directs an in line force from relatively below the wheel height to the mount for the surfacer. As such, the surfacing device of the present invention is patentably distinct from the grinding device of the Whitsett document.

In view of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection to claims 1 and 13 and the claims that depend therefrom as being anticipated by the Whitsett document is respectfully requested. Claims 2, 5-6 and 8 depend from independent claim 1. Claims 16-20 and 23 depend from independent claim 13. In light of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1, 2, 5-6, 8, 13, 16-20 and 23 as being anticipated by the Whitsett document is respectfully requested.

REJECTION UNDER 35 U.S.C. §102 (U.S. Patent No. 6,189,473 to D. Keith Appel et al.)

Claims 1-10, 13, 14, and 16-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,189,473 to D. Keith Appel et al. (Hereinafter referred to as, “the

Appel document”). Claims 7 and 14 have been cancelled. The Applicants respectfully submit that the amendments made to claims 1 and 13 obviate this rejection and thus, respectfully request reconsideration and withdrawal of the rejection to claims 1 and 13 and the claims that depend therefrom.

The Appel document is directed to a device that cleans surfaces. In a manner similar to the Whitsett document described herein above, the Appel document is directed to a device that positions the pivot point relatively high above the ground. *See FIG. 1*. In so doing, the Appel device is also inherently unstable when the grinding head is forced in directions other than upwards against the surface to be ground. *See FIG. 2*. It is thus only because of the great weight, that the device is able to clean non-horizontal surfaces. In contrast, claims 1 recites, *inter alia*, a joint to rotate about an axis that is perpendicular to the platform and the joint to pivot along a plane that is perpendicular to the platform, wherein the joint rotates at a level relatively below the wheel height and a suspension system disposed in line between the mount and the joint and that applies a force pressing the mount towards the surface. Also in contrast to the Appel document, claim 13 recites, *inter alia*, means for moving the apparatus along the floor, the means for moving having a profile height measured from the floor to a relatively highest point on the means for moving and means for controlling an amount of force exerted by the surfacing device upon the surface, wherein the amount of force is translated in line from relatively below the profile height to the surfacing device. As such, the present invention provides an inherently stable system that provides an even pressure urging the surfacing device towards the surface. In addition, this pressure is provided in an in line manner from below the wheel height to the surfacing device. The Appel document fails to disclose, at least, a surfacing device that directs an in line force from relatively below the wheel height to the mount for the surfacer. As such,

the surfacing device of the present invention is patentably distinct from the grinding device of the Appel document.

In view of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection to claims 1 and 13 and the claims that depend therefrom as being anticipated by the Appel document is respectfully requested. Claims 2-10 depend from independent claim 1. Claims 16-24 depend from independent claim 13. In light of the foregoing, withdrawal of the 35 U.S.C. § 102(b) rejection of claims 1-10, 13 and 16-24 as being anticipated by the Appel document is respectfully requested.

REJECTIONS UNDER 35 U.S.C. § 103(a) (the Appel document)

Claims 11 and 12 stand rejected under 35 U.S.C. § 103(a) as being anticipated by the Appel document. Initially, the Applicants note that claims 11 and 12 depends from independent claim 1 and that claim 1 is believed to be patentable for at least the reasons stated hereinabove. Applicants further note that any claim that depends from an allowable claim is also allowable. Therefore, Applicants respectfully request that the rejection to claims 11 and 12 be removed.

REJECTIONS UNDER 35 U.S.C. § 103(a) (the Appel document in view of U.S. Patent No. 5,643,047 to Leonard James Beckett et al.)

Claim 15 stands rejected under 35 U.S.C. § 103(a) as being anticipated by the Appel document in view of U.S. Patent No. 5,643,047 to Leonard James Beckett et al. Initially, the Applicants note that claim 15 depends from independent claim 13 and that claim 13 is believed to be patentable for at least the reasons stated hereinabove. Applicants further note that any

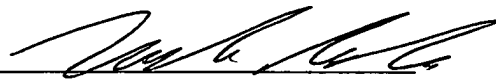
claim that depends from an allowable claim is also allowable. Therefore, Applicants respectfully request that the rejection to claim 15 be removed.

In view of the foregoing, reconsideration and allowance of this application is believed in order and such action is earnestly solicited. Should the Examiner believe that a telephone conference would facilitate examination of the application, the Examiner is respectfully invited to telephone the undersigned at (202) 861-1629.

In the event this paper is not timely filed, the Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

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